

RI Water Resources Board
100 North Main Street
Providence, Rhode Island 02903
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MINUTES OF BOARD MEETING #430
November 9, 2004 12:00PM

Members Present: Members Absent:

Daniel W. Varin, Chairman Rep. William Murphy

William Penn, V. Chairman

Timothy Brown

Andy Dzykewicz*

Robert Griffith*

John Milano

Frank Perry*

Sen. Leonidas Raptakis

Jon Schock

William Stamp, III

June Swallow*

Fred Vincent *Member designee

Staff Present: Guests:

Kathleen Crawley Larry Bernard, AMGEN

Elaine Maguire Jonathan Woods, AMGEN

Connie McGreavy Steven Wright, RIDEM Parks & Rec.

Brian Riggs Larry Mouradjian, RIDEM Parks & Rec.

Tracy Shields Al Cocce , RI Building Commission

Thomas Walker Daniel Silva, Coventry Girls Softball

William Riverso Brian Peterson, Coventry Girls Softball

Sheleen Clarke, RIDOT

George Brown

Michael Pisaturo, Esq.

John Saviano, BCWA

Pasquale DeLise, BCWA

Sen. Kevin Breene

1. CALL TO ORDER

With a quorum present, Chairman Varin called the meeting to order at 12:07 PM.

2. APPROVAL OF MINUTES:

On motion by Mr. Penn, second by Mr. Milano, the Board unanimously approved the minutes of the October 12, 2004 Board Meeting. Mr. Varin introduced Mr. Dzykewicz who was attending for Mr. Parsons.

3. CHIEF BUSINESS OFFICER'S REPORT

Mr. Penn stated that the Public Drinking Water Protection Committee reviewed the report and recommended approval. On a motion by Mr. Penn, seconded by Mr. Schock and Mr. Dzykewicz, the Board unanimously approved the Chief Business Officer's Report dated October 2004.

4. CHAIRMAN'S REMARKS

A. AMGEN Closeout and Presentations

Chairman Varin asked Mr. Perry to begin the discussion. Mr. Perry stated that the AMGEN parking lot had been closed out and all construction materials removed. He then introduced representatives from AMGEN, Larry Bernard and Jonathan Woods. Mr. Perry assured members that all materials from the project had been donated to various state and local agencies, some of which were present and wished to recognize AMGEN for its generosity. Larry Mouradjian, Chief of the RI Dept. of Environmental Management (DEM) Parks & Recreation Division made a presentation showing before and after shots of landscaping in various state-owned parks. Steve Wright, Superintendent of Parks and Mr. Mouradjian stated that the contribution of plant material was significant in terms of the benefit for some of the state's oldest urban parks. In all, 415 trees and 158 shrubs were either planted or temporarily stored at Goddard State Park until landscape designs are completed statewide. Other material utilized at a campground included a 10' x 36' aluminum sliding gate

and fifteen lengths of drainage pipe for gray water. DEM officials acknowledged the significant cost savings and thanked Elaine Maguire, Property Manager, for coordinating the project. They added that DEM staff helped mobilize the equipment and assisted others in removing trees and transporting them.

Mr. Perry mentioned that the RI Dept. of Transportation (DOT) also received plants. Sheleen Clarke, landscape architect, and Brian Peterson of both DOT and the Coventry Girls Softball League commended Ms. Maguire and DEM Director Vincent for their assistance in relocating some 80 trees and 100 shrubs. The League also received fencing and parking lot lights while the towns of West Greenwich and Coventry reportedly purchased other items such as portable toilets at tremendous savings. Various plaques and citations were presented to AMGEN from the Governor, DOT and the League. Next, Senator Kevin Breene, part-time Town Administrator for the town of West Greenwich, presented a citation to AMGEN from the town council. Mr. Breene explained that he was involved early on in the planning of the parking lot in the Big River Management Area (BRMA). He was pleased that AMGEN had kept its word and restored the gravel bank. The town received enough pipe for the highway department's needs as well as catch basins, curbstones and a well house. Sen. Raptakis of Coventry joined Sen. Breene in thanking AMGEN for a successful endeavor. Mr. Bernard stated that using the BRMA provided a creative and beneficial solution for everyone, for which he was extremely grateful. AMGEN was pleased to learn that so

many beneficial uses were found for the construction materials and the importance of being a good neighbor to the communities where staff live and work. Mr. Bernard credited Ms. Maguire for her efforts, and in turn, Ms. Maguire thanked project partners. Mr. Perry mentioned that the final step of planting drought-resistant grasses would be done in the spring. He clarified that the final report indicates a fence and gate; yet now, only a gate is planned.

B. 41 Park Lane, Maple Root Construction: Appeal of Board Decision, Correspondence, and Public Law

Chairman Varin referred members to Enclosure 3 while distributing an additional attachment. He directed members to the decision of the state Building Code Standards Committee, noting that the Building Code Commissioner issued a stop work order that was upheld by the Commission's Appeals Board. Apparently, several members of the commission felt it would be best to negotiate a settlement; accordingly, compliance with the order was temporarily delayed. Attorney Michael Pisaturo, counsel for George and Cheryl Brown, explained that his clients own a mobile home at 4 Park Lane in Coventry. In March of 2003 they purchased the home and indicated to Mapleroot Village Corporation their intention to build an addition, as this would be their retirement home. The Browns were told that, normally, construction would not be a problem as long as they had permission from the town of Coventry. Mr. Pisaturo referenced the state's lease with Mapleroot Village giving the Corporation the right to

manage the property. (A newer 30-year lease has since been renegotiated with the Mapleroot Homeowners Association.) Mr. Pisaturo noted that in the Brown's lease, as well as in other residents' leases with Mapleroot Village, if homeowners want to make additions or improvements to property, they need approval from Mapleroot Village as well as permits from the town of Coventry. These leases make no mention of needing permission to build from the state or the RI Water Resources Board if residences were located on state land, but perhaps, in retrospect, such a provision should have been added. In differentiating between mobile home park resident leases and the 30-year lease with Mapleroot Village and the Water Resources Board that was in effect at the time, Mr. Pisaturo indicated that nothing prohibits Mapleroot Village from giving permission. In the old lease (1971), the state could withhold permission, but this clause is not in the lease that governs today.

Mr. Pisaturo explained that the Browns submitted plans and received written permission to do the addition from Mapleroot Village Corporation. The Browns went before the town of Coventry; Bruce Alevick, Building Inspector, approved the plans architecturally. The Browns appeared before Coventry's Zoning Board where changes to the plan were made (a porch was eliminated) and the project approved. The deputy fire marshal also reportedly approved the plans and the town then issued a permit. Mr. Brown spent five months doing the work and thousands of dollars. Yet, he received a Notice of Violation (NOV), purportedly because the property is owned by the

state and the Browns did not have the state's permission. The stop-work order was issued after 75%-80% of the work had been done; the Browns had invested a majority of their nest egg in this project. Mr. Pisaturo went on to say that for the last 10-11 years, the town of Coventry has been issuing permits to other people who live on state land, yet not a single case resulted in an NOV from the WRB or the State Building Commission's office. Additionally, after the Brown's permit problem, other people applied for and received permits and completed their construction on state land. He felt there was an "equal protection" argument, though clarified that the Browns aren't looking for special treatment—just the same treatment. The Browns are elderly and were trying to do the right thing, following the same procedures as others. Nowhere was the proper procedure noted.

Mr. Pisaturo returned to the paragraph in the letter from the State Building Commission cited by Chairman Varin. He suggested the issue before the Commission was narrow, namely, whether the NOV was legally sent? Yes, was the conclusion, but Mr. Pisaturo restated that some members of the state commission were not pleased and one felt the state should buy the property. It has now been approximately one year, and the Browns simply want to complete their addition. Mr. Pisaturo referenced an earlier conversation with Chairman Varin who indicated that the Board's hands were tied. Mr. Pisaturo countered that Mr. DeDentro, State Building Commissioner, replied in a letter that if the Board gave its permission, than the

construction project would not be in violation. Mr. Pisaturo insisted that his clients would do whatever it takes to be in compliance with the State Building Commission. In fact, the Browns were circulating a petition signed by the Mapleroot Village Corporation (along with a second petition initiated by the president of the Mapleroot [Homeowners] Association) asking that residents of Mapleroot Village with mobile homes located on state lands be advised of their rights and responsibilities by way of a meeting with the Water Resources Board. Residents do not want what happened to the Browns to happen to them. Mr. Pisaturo approved of the Water Resources Board making a prospective decision going forward, but wanted the Browns to be able to finish the addition and not be singled out. He again suggested that existing leases be revised. Mr. Pisaturo claimed that no single application had ever come through the Water Resources Board for an addition on state property as far as he knew. For the last thirteen years, the state should have known that this kind of thing was going on. He strongly encouraged board members to allow the Browns to complete the project. Mr. Pisaturo referred to the State Building Code Commission's decision that urged further negotiation to settle the matter; otherwise this was headed for litigation. Mr. Pisaturo indicated that he would ask for a substantial amount in damages.

Chairman Varin stated that the Board does not have authority to supervise the local building inspector. Mr. Pisaturo emphasized that this was a practice that went on for ten years. Mr. Varin added that

only the state Building Code Standards Committee has vested authority to issue permits, not the Water Resources Board. Mr. Pisaturo felt there was a way to correct the problem, noting that this wasn't a parking lot or strip mall, just a simple addition. Chairman Varin referred members to the last line of the Building Commissioner's October 2004 letter: "If your client submits the identical package of information to this office as part of the building permit application, I will deny the permit". Mr. Varin asked Mr. Pisaturo what he thought Mr. DeDentro meant, alluding to the size of certain building materials. Chairman Varin asked whether a foundation was required? Mr. Pisaturo answered no. The Chairman then asked the Board's legal counsel to review the governing statutes. Senator Raptakis stated that the Browns are his constituents, and that he was surprised the Board had not set up a system or guidelines for people who wanted to add on to their property. He was also surprised that the local building inspector did not know the property was owned by the state, although he acknowledged that there were no visible boundaries, signs, or gates indicating such.

Mr. Penn called a point of order, stating that this agenda item was noted under the Chairman's remarks, and was not an action item. He recommended that a formal hearing be planned and posted as an action item to get all sides of the issue. Mr. Vincent referred to findings of fact by the State Building Commissioner, namely that a majority of homes are located on private property. Perhaps that

explains, in part, why the town is issuing permits. Mr. Perry stated that the local building inspector issued a permit because he thought the Brown's mobile home was on private property. The permit indicated the assessor's plat and lot numbers [corresponding to private property]; however, the building inspector does not normally verify property ownership but goes by what is on the application. Mr. Perry added that the building inspector also had a permission letter from Mapleroot Village Corporation. Chairman Varin stated that the Board does not have individual tenant leases at Mapleroot, just one single lease with the Mapleroot Homeowner's Association. Mr. Pisaturo asked whether Mapleroot had the power to give approvals. Mr. Vincent asked whether Mapleroot believed the land was privately owned. Mr. Pisaturo said that he was not sure, but that letters of permission were issued.

Mr. Schock wanted to know what the footprint of the building was and that of the addition. Pictures were then circulated among board members. Mr. Schock continued that if the applicant said it was private property, then it is not the building inspector's job to verify this. Mr. Pisaturo clarified that the application apparently does not provide detail in terms of whether the property is private, just the address and plat/lot numbers. Chairman Varin stated that the property is separate from what the Board owns; there are two owners of property. Mr. Perry stated that the state property does not have a plat/lot number. Senator Raptakis referred back to the time when the Board entered into a 42-page lease with the Mapleroot Corporation.

He asked whether the lease identified the portion of the property that was not private, or how to obtain permission to do any type of activity. Chairman Varin asked the Board's legal counsel to reply. Ms. Partington said that the lease states that "all laws of the state shall apply", which incorporates a universe of things—nothing specifically about obtaining permits—otherwise, the lease would be too long. Mr. Pisaturo stated that the 1971 lease between the state and Mapleroot Corporation specifically says that no alteration or improvements shall be made without first obtaining written authorization by the Board. In the 1996 lease, that provision was removed. Chairman Varin explained that any request to build in the Big River Management Area that came to the Board would have been referred to the State Building Commissioner.

Mr. Stamp felt that Senator Raptakis' solution for guidelines going forward seemed to be an easy option, and if the Board were to litigate, it would be an involved process. He felt the Board should solve the problem before it got more complicated and costly. Mr. Dzykewicz asked if permission were denied, would there be additional legal action. Ms. Partington did not wish to answer without a real scenario before her, but reminded members that this item was not for action, but just a presentation on behalf of the Browns. The Board could decide to make this an action item at a later date; she recommended the State Building Commissioner be included in any proceedings. Ms. Partington offered a short list of potential issues as well as historical perspective regarding prevailing attitudes when the

Board tried to change the leases some time ago. She stated that there are dozens of trespass and eviction actions that became federal court cases, which the Board won—the court system acknowledged the right of the Board to change the way things had always been done. As a maxim of state government, members of boards, or previous members of boards, by their actions or inactions, cannot bind this Board in terms of what is in front of it today.

Ms. Partington next encouraged members to consider the Brown's case, and other cases that may come forward, as well as those who may have done similar things in the past. Ms. Partington then instructed staff that certain photos be made part of the official record. These included Polaroid photos of the Brown's property as well as other people's property within Mapleroot Village (she thought these were pictures of other properties with additions that were not problematic). Ms. Partington then focused on the second issue: what language may or may not be included in the lease—the overriding rule of public law prohibits development on this property and preserves it as open space. She felt the Board must be guided in determining what constitutes development (soccer fields, parking lots, etc.) While this language is not explicitly in the lease, the law still applies. Finally, Ms. Partington stated that nothing in the lease requires permission from the Water Resources Board to build; however, the rule of law states that building cannot be done on someone else's property without permission. At this point, the Water Resources Board hasn't given anyone permission, so this is an

important action item. Ms. Partington was unsure whether a full-blown, public hearing was necessary. The main things to know would be who should be present, what sorts of documents are needed, and what action can be taken. Mr. Stamp asked whether the matter could go before the Property Committee first with recommendations. Ms. Partington said yes, but the focus should be on what to bring before the Board and who should be present; some members may not want action. She added that what the Board can do in this case is limited.

Chairman Varin stated that two questions are difficult to answer: 1) Does the current construction constitute development, and 2) If not, would whatever the State Building Code Commissioner requires constitute development? The statute says that the BRMA “shall not be sold, nor shall the land be developed in any way. The state shall not allow any future development or continued development on such property and said property shall be designated open space as defined in RI General Laws 45-36 1-7. Mr. Varin continued, if the State Building Code Commissioner means that he would frown at the present application, then would he permit something which requires a foundation, or something else that constitutes development? These are difficult determinations and possibly a matter for the RI General Assembly to decide on the petition by the Browns to specifically authorize them to do this, this year. The Board may decide they are not authorized. Mr. Vincent referred to the BOCA Code (standard code) used by all communities in Rhode Island. Coventry is not using

a different standard. He asked, could a homeowner construct a large shed, which if over a certain size, would require a foundation? We don't know what the footprint is. Either staff or the Building Commissioner could investigate the answers to the technical questions. Attorney Pisaturo stated that there are footings present. Mr. Vincent wanted to know what constituted a large enough footprint. Mr. Varin stated that Mr. Cocce of the state Building Codes Standards Committee was present. Mr. Cocce replied that anything over 199 square feet requires a foundation "system". A system does not have to be a full foundation; it could be four walls or sono tubes. Mr. Pisaturo explained that this application is for nearly 700 square feet. Mr. Penn asked how much bigger the footprint was from the original. Mr. Perry replied, double. Mr. Penn remarked that doubling the size was "development". Mr. Pisaturo felt that not all additions were development, and asked, where do we set the standard?

Ms. Partington asked what the appeal period was. Mr. Pisaturo answered that it was thirty days, either the end of next week or the week after that, adding that he plans to appeal. He explained that he missed last month's Board meeting by accident. Mr. Pisaturo asked the State Building Commission to postpone their decision to allow the matter to be worked out. Ms. Partington asked, what is the way the Board can correct the problem? What are the Browns' options? Mr. Pisaturo responded, the parties could get together and discuss what will satisfy the Board and the Browns as well as work with Commissioner DeDentro regarding guidelines to follow. Evidently,

local officials, including the building inspector, saw the construction and let it proceed. If the Board has additional concerns, we can discuss these. Mr. Stamp asked, if we approve the project, and then come back and put together guidelines, what are the ramifications for future additions? Ms. Partington stated that the Board could be subject to a lawsuit by the State of Rhode Island. The Attorney General would be the appropriate entity to enforce the law. Mr. Pisaturo said that the actual owner of the land is the Water Resources Board. Ms. Partington clarified that the owner is the State of Rhode Island, not the Board. Mr. Pisaturo countered that the power is vested in the Board. Mr. Perry reiterated that state law defines the BRMA as open space and prohibits development, except for development of a reservoir. Senator Raptakis asked who has the authority to give permission and added that the Board must discuss the proper procedure for the next person. For example, if the state builds the reservoir, does everyone have to move his or her homes?

Chairman Varin referred to AMGEN's action of removing the parking lot, and the Board's ability to enforce that. He asked whether the Browns were willing to accept a similar arrangement, that is, a requirement to remove the structure upon expiration of the period or upon demand (both options existed in the AMGEN Agreement). Mr. Pisaturo indicated he would speak with the Browns about that. Mr. Perry suggested that there would be no appeal from such a decision. He stated that the Board's master lease with Mapleroot Homeowners Association requires that if the Board decides there is a need [for a

reservoir] they have to evacuate that property. This pertains to all the properties on the reservoir. Mr. Penn reminded members that special legislation was passed to provide for Mapleroot Homeowners Association's 30-year lease, and that the Board supported the position. He asked, does one situation negate everything else the Board has done. Chairman Varin added that the Board accepted a reduced rental rate because the Homeowners Association claimed it could not afford the rate charged by Mapleroot Corporation.

Chairman Varin asked for a motion. Mr. Stamp asked for the item to go before the Property Committee for discussion and then to the Board for action at the following meeting. Senator Raptakis seconded the motion. Mr. Griffith preferred that the motion be amended so that the matter goes to the Property Committee for discussion and a recommendation of how to proceed, rather than schedule an action item for the Board in December. Mr. Stamp amended the motion with Senator Raptakis seconding. Chairman Varin clarified that not requiring the action item in a month does not make it go away. He said that there are many things to consider and lots of people to talk to. Mr. Pisaturo said he could do one of several things: 1) enter into a new agreement as to time limits for the appeal process, though he was hesitant or 2) file an appeal with the stipulation that litigation won't proceed without a decision by the Board. Mr. Vincent felt the offer was reasonable and that the Property Committee deserved a full opportunity to discuss it, with or without a recommendation. Ms. Partington stated that a legal appeal or other litigation is Mr.

Pisaturo's decision; the Board is not part of that process. It is okay to focus on the Property Committee to determine the scope of the issues—it could be one issue, it could be four. Chairman Varin went back to the DeDentro decision stating, "The appellant and the city or town involved in the original appeal to the Board shall remain the original parties in interest." He asked legal counsel if this meant that the Board is not a party to the suit. Ms. Partington said yes. The motion to send the item to the Property Committee was approved unanimously.

Chairman Varin concluded his report by stating that two bond issues that the Board had an interest in (Questions 7 and 8) were approved. Correspondence from the RI State Grange regarding water allocation was distributed.

5. GENERAL MANAGER'S REPORT

Due to the time, Mr. Varin requested that this report be made part of the written record.

6. COMMITTEE REPORTS AND ACTION ITEMS RESULTING

**A. Public Drinking Water Protection Committee—Chair Robert Griffith
Mr. Griffith stated that the Public Drinking Water Protection Committee did not meet in November.**

B. Property Committee—Chair Frank Perry

(1) Interagency Cooperative Memorandum of Understanding with the RI Water Resources Board and the RI Dept. of Environmental Management, Division of Forestry—Request for Approval

Mr. Perry stated that this item regarded the management of the BRMA property, including oversight of funds generated from timber sales. DEM's Forestry Division supervises activities and contractors in the BRMA. Revisions have been made in the MOU since the original agreement contemplated a consultant; however, DEM has been doing the work. Specifically, the last paragraph itemizes projects eligible for funding. The money raised from timber sales goes into the forestry fund and can only be expended for certain items. The list was expanded to make sure there wouldn't be any legal or technical problems in spending the money. Additionally, the percentage of funds shared by DEM and the Board was revised from 25%/75% to 35%/65% which is more consistent with DEM's actual costs. Mr. Perry moved approval with Mr. Penn seconding. The motion passed with Mr. Vincent abstaining. Mr. Vincent felt the expanded agreement would serve the needs of both agencies well, and he credited Tom Dupuis from DEM for crafting the language.

(2) Rhode Island Aeromodelers Proposal for a New Flying Field in the Gravel Pit (formerly Amgen parking lot area). Request for Approval—Tom Bucci, Club President

Mr. Perry reported that this location was off Division Road. The group wanted to move the site to the area being vacated by AMGEN since it

was away from the highway and could accommodate bigger planes. Mr. Perry stated that the Board also heard from the RI Air National Guard whose activities had been curtailed because of the parking lot construction. The Guard had less area to train in for air drops, helicopters, and ground training. The Property Committee decided not to take action on the request. Mr. Penn added that the Committee discussed other impacts to the grassland restoration project due to activities of the Aeromodelers. Chairman Varin agreed to hold the item in abeyance.

In closing, Mr. Perry made note of a petition being circulated regarding the Mapleroot matter, and that the Board would discuss it with legal counsel before the next Property Committee meeting.

C. Construction, Engineering and Operations Committee-Chair June Swallow

Ms. Swallow reported that the Committee did not meet in November.

D. Finance Committee—Chair William Penn

(Concurrent with Public Drinking Water Protection Committee)

(1) Payment Requests: Maguire Group Invoice #5—Payment Requested: \$9,738.75; Recommended payment: \$9,738.75. Request for Approval

Mr. Penn reported that approval could be deferred one month, or until after the Finance Committee reviews progress. Financially, the

Committee recommended payment (11% of contract) noting that the Board is responsible for 100% of the \$845,000 contract (funds are in the budget). Chairman Varin agreed to defer the action for one month.

E. Legislative Committee—Chair Daniel W. Varin

Chairman Varin reported that the Committee did not meet in November.

F. Strategic Committee—Chair Daniel W. Varin

Chairman Varin reported that the Committee did not meet in November.

G. Personnel Committee—Chair Jon Schock

No business was taken up at this point in the agenda.

7. NEW BUSINESS - None

8. OTHER BUSINESS

(a) Shad Factory Briefing—Pasquale DeLise, Executive Director, Bristol County Water Authority

Mr. DeLise introduced John Saviano, Chairman of the BCWA Board. Mr. Saviano stated that with the passage of the bond, the BCWA wished to look at the project differently. The concern was that if the

BCWA proceeds with the Rhode Island section of the pipeline followed by the Massachusetts section, then Massachusetts may, through permitting, cause us to not replace the pipe where it is presently, part of which is situated in water and wetlands. Mr. Saviano reported that the BCWA Board is concerned about the permitting timeframe. First, the plan is to get a contractor with special equipment to repair the damaged line in Warren, RI (about 1000'). The temporary repairs would last 5-6 years and the BCWA would have use of the Shad Factory line. The BCWA would go to bid for an engineering firm to study the permitting processes for Rhode Island and Massachusetts. Mr. Saviano explained that he expects the Massachusetts permitting would take longer. There are also the logistics of connecting the two lines, which he pointed out on a map. Massachusetts may decide to put the pipeline in the streets, which might result in the two sections being a mile apart.

Chairman Varin affirmed that BCWA has authority to go ahead with the emergency interconnection. Mr. Penn asked whether a cost estimates for the new approach had been prepared. Mr. Saviano replied that the figure was still within the original \$7 million dollars (existing \$2 million plus \$5 million in bond money), which should be sufficient. Mr. Penn asked what to expect if costs are exceeded. Mr. Saviano answered that they would look at the circumstances and remaining funds and then decide. He added that BCWA couldn't force either state to speed up the process. Mr. Penn thought the study recommended that the pipeline be relocated into the road; was this

option still being considered? Mr. Saviano said yes. Mr. Penn mentioned that if the price is going up, then the taxpayers shouldn't be responsible for more money. The Board approved a budget based on BCWA estimates. He then asked Mr. Saviano that if this was not enough money, is BCWA prepared to supplement the funding? Mr. Saviano replied that he could not commit the BCWA Board. He added that the normal permitting process might take six months to a year. Since most of the pipeline is in Massachusetts, the BCWA did not know what the roadblocks would be. Nevertheless, he was confident that all would go according to plan.

Mr. Vincent asked whether BCWA was going to develop a 10% level plan with estimates for permitting costs? Mr. DeLise replied that \$7 million is a good estimate for the two projects (one in MA and one in RI) if they are managed together, but not separately. With the bond passing, BCWA wants to explore putting the pipe in the road and prioritizing the Massachusetts section first, rather than the Rhode Island section. Mr. Vincent acknowledged that permitting was an important issue, and that in Rhode Island, plans usually need to be at a certain level of completion before approvals are granted. They would also have to address various impacts (ex: draining). Mr. DeLise clarified that design plans would probably be at least 30% complete. Mr. DeLise stated that approvals were needed from state environmental and transportation departments, as well as local conservation commissions in Massachusetts. With the new bond money, the BCWA could not only fix the broken sections, but also

start to replace the entire pipeline. Mr. DeLise explained that Maguire Group was hired in April to determine how much it would cost to repair 1000' of broken pipe and replace 5400' of pipe. The BCWA wants to investigate different options for the broken sections and do some of the work itself.

Mr. Stamp asked what the Authority pays Massachusetts. Mr. DeLise answered \$1000/year. Mr. Saviano added that the Authority has done repairs in Massachusetts because the state was worried about dams breaking and potential property damage. He added that water is valuable, and that BCWA has had rights to withdraw water for over 100 years and does not want to give away those rights or burden the Scituate system. Mr. DeLise added that regarding other permits, the plan requires installing the pipe in a river shoreline area. BCWA will need to know exactly where the Massachusetts and Rhode Island sections of the pipeline will be. Mr. Stamp asked what the engineering costs were to complete a 30% design. Mr. DeLise answered, \$30,000 and added that engineering costs related to permitting would cost between \$300,000-\$500,000. The best bang for the buck is to replace the 6-mile run versus only 5400'; the cost differential would be \$75/foot rather than \$250/foot. Mr. Vincent urged that the watershed must be protected since Mt. Hope Bay is a major contributor to the health of Narragansett Bay. He did not believe that Massachusetts' permitting analysis would be much different than Rhode Island's; however, he did not want the Massachusetts process to force what happens in Rhode Island. He instructed BCWA to take a holistic view

of the watershed and do what is most protective and least damaging to the environment.

Chairman Varin asked whether the action before the Board was to authorize BCWA to proceed with studying the permitting requirements. Mr. DeLise said, that the plan is the same, but getting there might be different. BCWA wants the Water Resources Board's support—no official action is needed. Mr. DeLise clarified that BCWA was not going to award the engineering services contract, but instead, review it to determine the most efficient and quickest way to get the job done. Chairman Varin then asked for an update on the treatment plant. Mr. DeLise stated that last month, some of the valves broke when the water was circulated into a closed loop. Those valves are being replaced and the plant should be operational (reduced operations due to the Shad being offline) by the end of the year.

Chairman Varin asked whether any Board members objected to moving to Agenda Item 11. There were no objections. Mr. Varin stated that in following up on the Board's direction from the last meeting, he could not report that had been completed. Mr. Varin explained that it would be necessary to hold another meeting of the Personnel Committee before proceeding. Senator Raptakis made a motion to defer the Executive Session and refer the matter back to the Personnel Committee with Mr. Milano seconding the motion. The motion passed unanimously. Ms. Partington offered assistance

regarding preparation of meeting notices.

9. RECESS OF BOARD FOR BOARD CORPORATE BUSINESS

With no objection, Chairman Varin recessed the Board for Board Corporate Business at 1:52PM. Mr. Stamp made the motion with Mr. Perry seconding. The motion passed unanimously.

10. RETURN FROM BOARD CORPORATE BUSINESS

At 2:00PM, the Board returned from Board Corporate business.

11. OPEN CALL FOR EXECUTIVE SESSION IN ACCORDANCE WITH RIGL 42-46-5(a)(1) JOB PERFORMANCE

No business was taken up at this point in the agenda.

12. ADJOURNMENT

On a motion by Mr. Griffith, seconded by Mr. Perry, the Board unanimously voted to adjourn at 2:05 PM.

Prepared by,

Connie McGreavy

GENERAL MANAGER'S REPORT

October 2004

As reflected in today's Board and Board Corporate agendas, it has been a productive month and, as reflected the staff reports, another busy month for everyone.

The Water Allocation Program had their seventh meeting of the Implementation Team on Wednesday, November 3. The meeting was very lively and productive with considerable progress made toward producing the draft template for the pilot basin-the lower Blackstone. In addition, Chairman Varin and I met with Ken Payne, Senate Policy Advisor, and Sandra Whitehouse, Environmental Policy Advisor for the House, to update them on the water allocation program.

Staff continued to work with DEM, the Nature Conservancy and other partners to promote the open space referendum, and independently to inform the public about Emergency Interconnection Bond referenda. Both questions #7 and #8 were approved by large margins reflecting the value Rhode Islanders place on water and open space.

The Providence Journal, RIPEC and Channel 36 provided information on the program goals and successes. The campaign organizers for

question 8 did a tremendous job with numerous editorials, events and flyers. I attended three well organized events -the bond campaign kick-off held at Colt State Park on October 21, the RI American Planning Association luncheon to present the various bond issues on October 22, and the Governor's open space grant awards announcement on October 26.

Other outreach efforts continue in many areas. Staff again attended Statewide Planning's monthly Technical Committee meeting to coordinate the water allocation efforts with the Land Use Plan Update.

I attended and participated as a panelist in the New England Water Works Symposium 2004. This year's conference closely aligned with the Board's water allocation initiative and provided an excellent opportunity to compare our efforts to neighboring states. This year's title was 2020 Vision for Water Suppliers-Focusing on Land Use and Demand Management. In addition, Beverly O'Keefe attended the Southern Conservation District's Annual Dinner.

Will River's Groundwater Protection/Acquisition program continues with work associated with the test well adjacent to Well #336. He has begun coordination with RIDEM regarding the wells located on the Tuckahoe Turf Farm land, which now move forward with passage of the bond referendum. Several water quality protection projects will move forward this month.

Tom Walker continued progress on the supplemental water and interconnection projects. In addition, he prepared a summary of projects completed under the interconnections program and public educational materials. He continued to work with BCWA regarding the

Shad Pipeline and monthly updates to the Board. He took me on an educational tour of the Child Street Treatment Facility and the MA reservoirs. I would never be able to find the reservoirs again.

We reached a milestone this month as all Water system Supply Management plans have been approved. Ms. O’Keefe is working closely with several suppliers, providing conservation information and technical assistance for their interim reports. She is planning meetings with the review agencies and the suppliers consistent with the Board’s direction in the near future.

Ms. McGreavy has been in communication with the Dept. of Administration regarding authorization of the water supply database project. A meeting to discuss formal data sharing and information systems integration is planned for later this month.

Mr. Riggs and I continue to work with the Budget Office. Lead assessment monies have been added to the budget offset by moving to a four-year supplier audit cycle. The Board audit is now scheduled to begin on or about November 15. We continue to work on defining our new relationship with the Rivers Council.

Finally, the PDWP Committee did not meet this month to accommodate today’s busy schedule, and will have a very busy agenda for December. After request of Counsel, Mr. Griffith, Chairman Varin, Mr. Perry, Ms. Maguire and I met to review the 41 Park Lane matter.

In preparation for today’s meeting, the Personnel Committee and the Finance Committee met to consider the action items in today’s agenda.

Mr. Chairman, this concludes my report, are there any questions?

Overseeing Body: RI Water Resources Board

Public Body: RI Water Resources Board

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